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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,436	11/14/2000	Stephen John Kotre	200-0318	9683

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EXAMINER

MOHANDESI, IRAJ A

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 09/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,436

Applicant(s)

KOTRE ET AL.

Examiner

Iraj A Mohandesi

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-12, 14-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitations ,a predetermined first set of operating conditions, a predetermined second set of operating conditions, first set of vehicle idle entry, the desired engine break torque, the first desired effect, a maximum desired level , are not defined in the specification

2. In order to advance prosecution on the merits prior art has been applied to the claims as best understood by examiner.

Response to Amendment

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-3** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Pels et al. (US patent 6,109,237)** in view of **Field (US 5,081,365)**.

5. **Pels et al.** discloses a method of controlling the idle speed of the engine comprising ; determining whether the vehicle is below a predetermined maximum

Idle speed and whether an accelerator is below a predetermined minimum pedal position (column 5 ,line 60-68), selectivity activating an engine controller (23) to control engine idle speed when a predetermined second set of operating condition is present.

However **Pels** fails to teach the step of turning off the engine when the first condition is not present and when the engine has been in a current vehicle mode for a predetermined amount of time.

Field discloses the step of turning off the engine when the engine has been in the current vehicle idle mode when the batteries are well charged (column 1) to increase the fuel economy.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the method of controlling the idle speed as taught by **Pels et al.** and to provide the step of turning off the engine when the engine has been in the current vehicle idle mode when the batteries are well charged as taught by **Field** for the purpose of increasing the engine fuel economy.

6. **Claims 4-16**, are rejected under 35 U.S.C. 103(a) as being unpatentable over **Pels** and in view of **Field** as applied to claims 1,2 above, and further in view of **Severinsky (US patent 6209,672)**.

The combined method of **Pels, Field fail to teach** a controller for fuel system ,engine temperature, when a catalyst has cooled below minimum catalyst temperature , **Severinsky teach** a controller produce the first effect when a fuel system requires purging (column 23, line 27-33) ,the controller produce the first effect when an adaptive fuel table requires HEV-fast adaptive learning (column 20, line 25);the controller produce the first effect, when the engine temperature is below a predetermined engine temperature (63, column 5 line 55-68); the controller produce the first effect ,when a catalyst has cooled below predetermined minimum catalyst temperature (column 23, line 45-50) to control the operating temperature of the engine.

Therefore it would have been obvious to one having skill in the art at the time the invention was made to modify the combined method of **Pels, Field** with the control system was thought by **Severinsky** for the purpose of controlling the operating temperature of engine and the minimum catalyst temperature of the catalyst converter.

The combined method of **Severinsky, Pels, Field** teaches all limitation of the claim except a controller which produce the first effect ,when vacuum level in a climate control reservoir is below a predetermined minimum vacuum level; when air conditioning has been requested by a vehicle operator; and existence of a learned adaptive fuel table for current driving mode; a control unit to produce the first effect ,when a vacuum level in

brake system is below a predetermined brake system vacuum level. **Kubota'698** discloses a vehicle control system comprising; a control unit for air-conditioner operation, when air conditioning has been requested by a vehicle operator (column 5 line 25); a system control for a learned adaptive fuel table for current driving mode and condition (column 5, line 15) for the purpose of temperature selectivity and monitoring the driving mode.

Therefore it would have been obvious to one having skill in the art at the time the invention was made to provide the control unit for air conditioning and a control system for learning the adapted fuel table, which was taught by **Kubota'698** to combined **Severinsky Pels, Field** hybrid vehicle to achieve a temperature selectivity for vehicle operator and to monitor the current condition of the driving mode and remaining fuel.

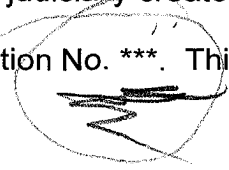
Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. **Claims 1,3,11,13-16** are provisionally rejected under the judicially created doctrine of double patenting over claims 1 of copending Application No. ***. This is a

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provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

Controlling the idle speed of an engine comprising determining the set of vehicle idling conditions comprising whether the vehicle is below a predetermined maximum idling conditions comprising whether the vehicle is below a predetermined idle speed and accelerator is below minimum idle position, activating a vehicle system controller to control the generator to control the engine idle speed when the state of charge of the battery is below predetermined state of charge, scheduling the desired break torque and the selectivity the vehicle controller to control the generator.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Response to Arguments

9. Applicant's arguments with respect to claims 1-13, 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

communication

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Iraj A Mohandesi whose telephone number is (703)305-3242. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on 703-308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9314 for regular communications and (703)872-9314 for After Final communications.

Application/Control Number: 09/712,436

Page 8

Art Unit: 2834

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-0377.

I.M

September 11, 2002



NESTOR RAMIREZ
TECHNOLOGY PATENT EXAMINER
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